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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

STEFANON, JUSTIN

ART UNIT PAPER NUMBER

3682

DATE MAILED: 03/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/028,440

Applicant(s)

BRANDSMA, ARJEN

Examiner

Justin Stefanon

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 December 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Drawings***

2. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The disclosure is objected to because of the following informalities: The specification lacks section headings.

Appropriate correction is required.

### ***Claim Objections***

4. Claims 6 and 9 objected to because of the following informalities: claim 6 recites "a projection (10)" and "the projection (11)". The reference numerals should be deleted or corrected, as the projection is the same item in each case. Claim 9 recites "the radially direction", which should be replaced with --the radial direction--.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 5 and 7-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 5 recites the broad recitation "between 20 mm and 180 mm", and the claim also recites "preferably between 30 mm and 150 mm" which is the narrower statement of the range/limitation.

Claim 7 recites the limitation "the radial direction" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-4 and 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent Document 2000-74150 to Kanehara et al.

Kanehara discloses a transmission belt 10 comprising transverse elements 30 and an endless carrier 11, each transverse element provided with a rocking edge 33 showing a curvature for allowing neighbouring transverse elements to mutually tilt about an substantially axially oriented contact line over a tilting angle, so that a part of the belt may pass along a longitudinally bent trajectory, characterised in that the curvature of the rocking edge notionally displaces the contact line in dependence on the tilting angle. The curvature of the rocking edge is defined by at least one of a plurality of radii exceeding 20 mm, i.e. the radius of the flattened portion, infinitely greater than 20mm. The curvature of the rocking edge is defined by a plurality of radii that continuously increase in a radially inward direction. The curvature of the rocking edge is substantially elliptical in the region of radius R. Each transverse element is provided with a projection 37 longitudinally protruding from a principle plane thereof, having a protruding height that is smaller than a maximum tilting clearance in the belt's longitudinal direction at the location of the projection between two mutually contacting elements as seen in Figure 2. In the radial direction of the transmission belt the rocking edge at least partly coincides

Art Unit: 3682

with the endless carrier. The curvature of the rocking edge is defined such that the contact line between two neighbouring elements is located radially inward from the endless carrier. The transverse element is provided with an axial side face 35 for contact with a pulley 2, 3 and the rocking edge extends in the radial direction to approximately half a radial dimension of the axial side face.

In reference to claim 10, the prior art discloses the basic product as cited in claim

1. Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. See MPEP § 2113.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kanehara

Kanehara discloses the claimed invention except for the radius within the specified range, the disclosed range stopping at 16mm. Kanehara discloses that it is known in the art to provide a radius of curvature of the rocking edge that increases with an increased gear reduction ratio. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the rocking face of Kanehara with a radius greater than 20 mm, in order to allow for a greater gear reduction ratio of a transmission.

11. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kanehara et al. in view of U.S. Patent No. 6,074,317 to Kobayashi.

Kanehara discloses the claimed invention except for the belt being used in a CVT of a vehicle. Kobayashi discloses that it is known in the art to provide a belt with transverse elements having rocking edges in a CVT for a vehicle. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the belt of Kanehara with the vehicle having a CVT as taught by Kobayashi, as it is a common use in the art for such a belt.

The rocking edge of the transverse elements of Kanehara is such that the contact line between two neighbouring elements is located radially inward from the endless carrier. At a minimum radius of a bent trajectory part of the belt the displacement of the contact line is at a maximum, as it is at a maximum when the flat portions are contacting on their radially innermost edge.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows various belts with transverse elements having curvature of the rocking edges between adjacent elements.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Stefanon whose telephone number is 703-305-1945. The examiner can normally be reached on Monday - Thursday 6 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Bucci can be reached on 703-308-3668. The fax phone numbers

Art Unit: 3682

for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

js JS  
March 20, 2003

*William C. Joyce* 3/20/03  
William C. Joyce  
Patent Examiner